



March 20, 2015

ENGROSSED SENATE BILL No. 420

DIGEST OF SB 420 (Updated March 18, 2015 6:43 pm - DI 77)

Citations Affected: IC 5-2; IC 11-8; IC 11-10; IC 11-12; IC 11-13; IC 12-7; IC 12-10; IC 12-15; IC 12-20; IC 12-28; IC 12-29; IC 16-18; IC 16-39; IC 16-41; IC 22-4; IC 27-8; IC 35-31.5; IC 35-36; IC 35-37; IC 35-50.

Synopsis: Developmental disability terminology. Changes the term "mental retardation" to "intellectual disability". (This bill does not change references to "mental retardation" as applied to federally defined institutions or programs.)

Effective: July 1, 2015.

**Grooms, Becker, Kruse, Breaux,
Alting, Brown L, Glick, Walker**

(HOUSE SPONSORS — CLERE, KLINKER, MCNAMARA)

January 12, 2015, read first time and referred to Committee on Family & Children Services.

January 27, 2015, amended, reported favorably — Do Pass.

January 29, 2015, read second time, ordered engrossed. Engrossed.

February 2, 2015, read third time, passed. Yeas 44, nays 0.

HOUSE ACTION

March 3, 2015, read first time and referred to Committee on Public Health.

March 19, 2015, reported — Do Pass.

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March 20, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 420

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.164-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 9. (a) The board shall adopt in accordance with
4 IC 4-22-2 all necessary rules to carry out the provisions of this chapter.
5 The rules, which shall be adopted only after necessary and proper
6 investigation and inquiry by the board, shall include the establishment
7 of the following:
8 (1) Minimum standards of physical, educational, mental, and
9 moral fitness which shall govern the acceptance of any person for
10 training by any law enforcement training school or academy
11 meeting or exceeding the minimum standards established
12 pursuant to this chapter.
13 (2) Minimum standards for law enforcement training schools
14 administered by towns, cities, counties, law enforcement training
15 centers, agencies, or departments of the state.
16 (3) Minimum standards for courses of study, attendance

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requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness, including training on the Unlawful Nonimmigrant Visa created through the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with autism, mental illness, addictive disorders, ~~mental retardation~~, **intellectual disabilities**, and developmental disabilities;

(B) missing endangered adults (as defined in IC 12-7-2-131.3); and

(C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws



- 1 (IC 35-42-3.5).
- 2 (B) Identification of human and sexual trafficking.
- 3 (C) Communicating with traumatized persons.
- 4 (D) Therapeutically appropriate investigative techniques.
- 5 (E) Collaboration with federal law enforcement officials.
- 6 (F) Rights of and protections afforded to victims.
- 7 (G) Providing documentation that satisfies the Declaration of
- 8 Law Enforcement Officer for Victim of Trafficking in Persons
- 9 (Form I-914, Supplement B) requirements established under
- 10 federal law.
- 11 (H) The availability of community resources to assist human
- 12 and sexual trafficking victims.
- 13 (b) A law enforcement officer appointed after July 5, 1972, and
- 14 before July 1, 1993, may not enforce the laws or ordinances of the state
- 15 or any political subdivision unless the officer has, within one (1) year
- 16 from the date of appointment, successfully completed the minimum
- 17 basic training requirements established under this chapter by the board.
- 18 If a person fails to successfully complete the basic training
- 19 requirements within one (1) year from the date of employment, the
- 20 officer may not perform any of the duties of a law enforcement officer
- 21 involving control or direction of members of the public or exercising
- 22 the power of arrest until the officer has successfully completed the
- 23 training requirements. This subsection does not apply to any law
- 24 enforcement officer appointed before July 6, 1972, or after June 30,
- 25 1993.
- 26 (c) Military leave or other authorized leave of absence from law
- 27 enforcement duty during the first year of employment after July 6,
- 28 1972, shall toll the running of the first year, which shall be calculated
- 29 by the aggregate of the time before and after the leave, for the purposes
- 30 of this chapter.
- 31 (d) Except as provided in subsections (e), (l), (r), and (s), a law
- 32 enforcement officer appointed to a law enforcement department or
- 33 agency after June 30, 1993, may not:
- 34 (1) make an arrest;
- 35 (2) conduct a search or a seizure of a person or property; or
- 36 (3) carry a firearm;
- 37 unless the law enforcement officer successfully completes, at a board
- 38 certified law enforcement academy or at a law enforcement training
- 39 center under section 10.5 or 15.2 of this chapter, the basic training
- 40 requirements established by the board under this chapter.
- 41 (e) This subsection does not apply to:
- 42 (1) a gaming agent employed as a law enforcement officer by the



1 Indiana gaming commission; or

2 (2) an:

3 (A) attorney; or

4 (B) investigator;

5 designated by the securities commissioner as a police officer of
6 the state under IC 23-19-6-1(k).

7 Before a law enforcement officer appointed after June 30, 1993,
8 completes the basic training requirements, the law enforcement officer
9 may exercise the police powers described in subsection (d) if the
10 officer successfully completes the pre-basic course established in
11 subsection (f). Successful completion of the pre-basic course authorizes
12 a law enforcement officer to exercise the police powers described in
13 subsection (d) for one (1) year after the date the law enforcement
14 officer is appointed.

15 (f) The board shall adopt rules under IC 4-22-2 to establish a
16 pre-basic course for the purpose of training:

17 (1) law enforcement officers;

18 (2) police reserve officers (as described in IC 36-8-3-20); and

19 (3) conservation reserve officers (as described in IC 14-9-8-27);

20 regarding the subjects of arrest, search and seizure, the lawful use of
21 force, interacting with individuals with autism, and the operation of an
22 emergency vehicle. The pre-basic course must be offered on a periodic
23 basis throughout the year at regional sites statewide. The pre-basic
24 course must consist of at least forty (40) hours of course work. The
25 board may prepare the classroom part of the pre-basic course using
26 available technology in conjunction with live instruction. The board
27 shall provide the course material, the instructors, and the facilities at
28 the regional sites throughout the state that are used for the pre-basic
29 course. In addition, the board may certify pre-basic courses that may be
30 conducted by other public or private training entities, including
31 postsecondary educational institutions.

32 (g) The board shall adopt rules under IC 4-22-2 to establish a
33 mandatory inservice training program for police officers. After June 30,
34 1993, a law enforcement officer who has satisfactorily completed basic
35 training and has been appointed to a law enforcement department or
36 agency on either a full-time or part-time basis is not eligible for
37 continued employment unless the officer satisfactorily completes the
38 mandatory inservice training requirements established by rules adopted
39 by the board. Inservice training must include training in interacting
40 with persons with mental illness, addictive disorders, ~~mental~~
41 ~~retardation~~, **intellectual disabilities**, autism, developmental
42 disabilities, and Alzheimer's disease or related senile dementia, to be



provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.
- (6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Lawful use of force.
- (7) Department programs.



(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).



(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and



(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(u) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

SECTION 2. IC 11-8-2-8, AS AMENDED BY P.L.100-2012, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The department shall cooperate with the



1 state personnel department in establishing minimum qualification
 2 standards for employees of the department and in establishing a system
 3 of personnel recruitment, selection, employment, and distribution.

4 (b) The department shall conduct training programs designed to
 5 equip employees for duty in its facilities and programs and raise their
 6 level of performance. Training programs conducted by the department
 7 need not be limited to inservice training. They may include
 8 preemployment training, internship programs, and scholarship
 9 programs in cooperation with appropriate agencies. When funds are
 10 appropriated, the department may provide educational stipends or
 11 tuition reimbursement in such amounts and under such conditions as
 12 may be determined by the department and the personnel department.

13 (c) The department shall conduct a training program on cultural
 14 diversity awareness that must be a required course for each employee
 15 of the department who has contact with incarcerated persons.

16 (d) The department shall provide six (6) hours of training to
 17 employees who interact with persons with mental illness, addictive
 18 disorders, ~~mental retardation~~, **intellectual disabilities**, and
 19 developmental disabilities concerning the interaction, to be taught by
 20 persons approved by the secretary of family and social services, using
 21 teaching methods approved by the secretary of family and social
 22 services and the commissioner. The commissioner or the
 23 commissioner's designee may credit hours of substantially similar
 24 training received by an employee toward the required six (6) hours of
 25 training.

26 (e) The department shall establish a correctional officer training
 27 program with a curriculum, and administration by agencies, to be
 28 determined by the commissioner. A certificate of completion shall be
 29 issued to any person satisfactorily completing the training program. A
 30 certificate may also be issued to any person who has received training
 31 in another jurisdiction if the commissioner determines that the training
 32 was at least equivalent to the training program maintained under this
 33 subsection.

34 SECTION 3. IC 11-10-3-4, AS AMENDED BY P.L.159-2012,
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2015]: Sec. 4. (a) The department shall establish directives
 37 governing:

38 (1) medical care to be provided to committed individuals,
 39 including treatment for ~~mental retardation~~, **intellectual**
 40 **disabilities**, alcoholism, and drug addiction;

41 (2) administration of medical facilities and health centers
 42 operated by the department;



- (3) medical equipment, supplies, and devices to be available for medical care;
- (4) provision of special diets to committed individuals;
- (5) acquisition, storage, handling, distribution, and dispensing of all medication and drugs;
- (6) the return of unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6) to the pharmacy that dispensed the medication;
- (7) training programs and first aid emergency care for committed individuals and department personnel;
- (8) medical records of committed individuals; and
- (9) professional staffing requirements for medical care.

(b) The state department of health shall make an annual inspection of every health facility, health center, or hospital:

- (1) operated by the department; and
- (2) not accredited by a nationally recognized accrediting organization;

and report to the commissioner whether that facility, center, or hospital meets the requirements established by the state department of health. Any noncompliance with those requirements must be stated in writing to the commissioner, with a copy to the governor.

(c) For purposes of IC 4-22-2, the term "directive" as used in this section relates solely to internal policy and procedure not having the force of law.

(d) For purposes of subsection (a)(6), the department:

- (1) shall return medication that belonged to a Medicaid recipient; and
- (2) may return other unused medication;

to the pharmacy that dispensed the medication if the unused medication meets the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6).

(e) The department may establish directives concerning the return of unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l).

(f) A pharmacist or pharmacy that enters into an agreement with the department to accept the return of:

- (1) unused medications that meet the requirements of IC 25-26-13-25(k)(1) through IC 25-26-13-25(k)(6); or
- (2) unused medical devices or medical supplies that are used for prescription drug therapy and that meet the requirements of IC 25-26-13-25(l);



1 may negotiate with the department a fee for processing the returns.

2 SECTION 4. IC 11-12-2-1, AS AMENDED BY P.L.168-2014,
3 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2015]: Sec. 1. (a) For the purpose of encouraging counties to
5 develop a coordinated local corrections-criminal justice system and
6 providing effective alternatives to imprisonment at the state level, the
7 commissioner shall, out of funds appropriated for such purposes, make
8 grants to counties for the establishment and operation of community
9 corrections programs. Appropriations intended for this purpose may not
10 be used by the department for any other purpose. Money appropriated
11 to the department of correction for the purpose of making grants under
12 this chapter and any financial aid payments suspended under section 6
13 of this chapter do not revert to the state general fund at the close of any
14 fiscal year, but remain available to the department of correction for its
15 use in making grants under this chapter.

16 (b) Before March 1, 2015, the department shall estimate the amount
17 of any operational cost savings that will be realized in the state fiscal
18 year ending June 30, 2015, from a reduction in the number of
19 individuals who are in the custody or made a ward of the department
20 of correction (as described in IC 11-8-1-5) that is attributable to the
21 sentencing changes made in HEA 1006-2014 as enacted in the 2014
22 session of the general assembly. The department shall make the
23 estimate under this subsection based on the best available information.
24 If the department estimates that operational cost savings described in
25 this subsection will be realized in the state fiscal year ending June 30,
26 2015, the following apply to the department:

27 (1) The department shall certify the estimated amount of
28 operational cost savings that will be realized to the budget agency
29 and to the auditor of state.

30 (2) The department may, after review by the budget committee
31 and approval by the budget agency, make additional grants as
32 provided in this chapter to counties for the establishment and
33 operation of community corrections programs from funds
34 appropriated to the department for the department's operating
35 expenses for the state fiscal year.

36 (3) The department may, after review by the budget committee
37 and approval by the budget agency, transfer funds appropriated to
38 the department for the department's operating expenses for the
39 state fiscal year to the judicial conference of Indiana to be used by
40 the judicial conference of Indiana to provide additional financial
41 aid for the support of court probation services under the program
42 established under IC 11-13-2.



- (4) The maximum aggregate amount of additional grants and transfers that may be made by the department under subdivisions (2) and (3) for the state fiscal year may not exceed the lesser of:
- (A) the amount of operational cost savings certified under subdivision (1); or
 - (B) eleven million dollars (\$11,000,000).

Notwithstanding P.L.205-2013 (HEA 1001-2013), the amount of funds necessary to make any additional grants authorized and approved under this subsection and for any transfers authorized and approved under this subsection, and for providing the additional financial aid to courts from transfers authorized and approved under this subsection, is appropriated for those purposes for the state fiscal year ending June 30, 2015, and the amount of the department's appropriation for operating expenses for the state fiscal year ending June 30, 2015, is reduced by a corresponding amount. This subsection expires June 30, 2015.

(c) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, ~~mental retardation~~, **intellectual disabilities**, and developmental disabilities.

SECTION 5. IC 11-12-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) As used in this section, "jail officer" means a person whose duties include the daily or ongoing supervision of county jail inmates.

(b) A person may be confined in the county jail only if there is a jail officer stationed in the jail.

(c) A jail officer whose employment begins after December 31, 1985, shall complete the training required by this section during the first year of employment. This subsection does not apply to a jail officer who:

- (1) has successfully completed minimum basic training requirements (other than training completed under IC 5-2-1-9(h)) for law enforcement officers established by the law enforcement training board; or
- (2) is a law enforcement officer and is exempt from the training requirements of IC 5-2-1. For purposes of this subdivision, completion of the training requirements of IC 5-2-1-9(h) does not exempt an officer from the minimum basic training requirements of IC 5-2-1.

(d) The law enforcement training board shall develop a forty (40) hour program for the specialized training of jail officers. The program training must include six (6) hours of training in interacting with persons with mental illness, addictive disorders, ~~mental retardation~~;



1 **intellectual disabilities**, and developmental disabilities, to be provided
 2 by persons approved by the secretary of family and social services and
 3 the law enforcement training board. The remainder of the training shall
 4 be provided by the board.

5 (e) The board shall certify each person who successfully completes
 6 such a training program.

7 (f) The department shall pay the cost of training each jail officer.

8 SECTION 6. IC 11-13-1-8, AS AMENDED BY P.L.147-2012,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2015]: Sec. 8. (a) As used in this section, "board" refers to the
 11 board of directors of the judicial conference of Indiana established by
 12 IC 33-38-9-3.

13 (b) The board shall adopt rules consistent with this chapter,
 14 prescribing minimum standards concerning:

15 (1) educational and occupational qualifications for employment
 16 as a probation officer;

17 (2) compensation of probation officers;

18 (3) protection of probation records and disclosure of information
 19 contained in those records;

20 (4) presentence investigation reports;

21 (5) a schedule of progressive probation incentives and violation
 22 sanctions, including judicial review procedures; and

23 (6) qualifications for probation officers to administer probation
 24 violation sanctions under IC 35-38-2-3(e).

25 (c) The conference shall prepare a written examination to be used
 26 in establishing lists of persons eligible for appointment as probation
 27 officers. The conference shall prescribe the qualifications for entrance
 28 to the examination and establish a minimum passing score and rules for
 29 the administration of the examination after obtaining recommendations
 30 on these matters from the probation standards and practices advisory
 31 committee. The examination must be offered at least once every other
 32 month.

33 (d) The conference shall, by its rules, establish an effective date for
 34 the minimum standards and written examination for probation officers.

35 (e) The conference shall provide probation departments with
 36 training and technical assistance for:

37 (1) the implementation and management of probation case
 38 classification; and

39 (2) the development and use of workload information.

40 The staff of the Indiana judicial center may include a probation case
 41 management coordinator and probation case management assistant.

42 (f) The conference shall, in cooperation with the department of child



1 services and the department of education, provide probation
 2 departments with training and technical assistance relating to special
 3 education services and programs that may be available for delinquent
 4 children or children in need of services. The subjects addressed by the
 5 training and technical assistance must include the following:

- 6 (1) Eligibility standards.
- 7 (2) Testing requirements and procedures.
- 8 (3) Procedures and requirements for placement in programs
 9 provided by school corporations or special education cooperatives
 10 under IC 20-35-5.
- 11 (4) Procedures and requirements for placement in residential
 12 special education institutions or facilities under IC 20-35-6-2 and
 13 511 IAC 7-27-12.
- 14 (5) Development and implementation of individual education
 15 programs for eligible children in:
 - 16 (A) accordance with applicable requirements of state and
 17 federal laws and rules; and
 - 18 (B) coordination with:
 - 19 (i) individual case plans; and
 - 20 (ii) informal adjustment programs or dispositional decrees
 21 entered by courts having juvenile jurisdiction under
 22 IC 31-34 and IC 31-37.
- 23 (6) Sources of federal, state, and local funding that is or may be
 24 available to support special education programs for children for
 25 whom proceedings have been initiated under IC 31-34 and
 26 IC 31-37.

27 Training for probation departments may be provided jointly with
 28 training provided to child welfare caseworkers relating to the same
 29 subject matter.

30 (g) The conference shall, in cooperation with the division of mental
 31 health and addiction (IC 12-21) and the division of disability and
 32 rehabilitative services (IC 12-9-1), provide probation departments with
 33 training and technical assistance concerning mental illness, addictive
 34 disorders, ~~mental retardation~~, **intellectual disabilities**, and
 35 developmental disabilities.

36 (h) The conference shall make recommendations to courts and
 37 probation departments concerning:

- 38 (1) selection, training, distribution, and removal of probation
 39 officers;
- 40 (2) methods and procedure for the administration of probation,
 41 including investigation, supervision, workloads, record keeping,
 42 and reporting; and



(3) use of citizen volunteers and public and private agencies.

(i) The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 7. IC 12-7-2-130 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 130. "Mental illness" means the following:

(1) For purposes of IC 12-23-5, IC 12-24, and IC 12-26, a psychiatric disorder that:

(A) substantially disturbs an individual's thinking, feeling, or behavior; and

(B) impairs the individual's ability to function.

The term includes ~~mental retardation~~, **intellectual disabilities**, alcoholism, and addiction to narcotics or dangerous drugs.

(2) For purposes of IC 12-28-4 and IC 12-28-5, a psychiatric disorder that:

(A) substantially disturbs an individual's thinking, feeling, or behavior; and

(B) impairs the individual's ability to function.

The term does not include developmental disability.

SECTION 8. IC 12-7-2-131.3, AS ADDED BY P.L.140-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 131.3. "Missing endangered adult", for purposes of IC 12-10-18, means an individual at least eighteen (18) years of age who is reported missing to a law enforcement agency and is, or is believed to be:

(1) a temporary or permanent resident of Indiana;

(2) at a location that cannot be determined by an individual familiar with the missing individual; and

(3) incapable of returning to the missing individual's residence without assistance by reason of:

(A) mental illness;

(B) ~~mental retardation~~, **intellectual disability**;

(C) dementia; or

(D) another physical or mental incapacity of managing or directing the management of the individual's property or providing or directing the provision of self-care.

SECTION 9. IC 12-7-2-136, AS AMENDED BY P.L.99-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 136. "Patient" means the following:

(1) For purposes of IC 12-24-1-4, an individual who is admitted to a state institution for observation, diagnosis, or treatment.

(2) For purposes of IC 12-24-7, the meaning set forth in



1 IC 12-24-7-1.

2 (3) For purposes of IC 12-24-6, IC 12-24-13, IC 12-24-14, and
 3 IC 12-24-15, an individual with a mental illness, an individual
 4 who appears to have a mental illness, or an individual with ~~mental~~
 5 ~~retardation~~ **an intellectual disability** who is:

6 (A) in or under the supervision and control of a state
 7 institution; or

8 (B) because of mental illness, under the supervision and
 9 control of a circuit, superior, or juvenile court.

10 (4) For purposes of IC 12-24-17, the meaning set forth in
 11 IC 12-24-17-2.

12 (5) For purposes of IC 12-27, an individual receiving mental
 13 health services or developmental training. The term includes a
 14 client of a service provider.

15 SECTION 10. IC 12-7-2-150 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 150. "Psychiatric
 17 disorder", for purposes of section 130(2) of this chapter, means a
 18 mental disorder or disease. The term does not include the following:

19 (1) ~~Mental retardation.~~ **An intellectual disability.**

20 (2) A developmental disability.

21 (3) Alcoholism.

22 (4) Addiction to narcotic or dangerous drugs.

23 SECTION 11. IC 12-10-3-2 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Except as
 25 provided in subsection (b), as used in this chapter, "endangered adult"
 26 means an individual who is:

27 (1) at least eighteen (18) years of age;

28 (2) incapable by reason of mental illness, ~~mental retardation;~~
 29 **intellectual disability**, dementia, habitual drunkenness, excessive
 30 use of drugs, or other physical or mental incapacity of managing
 31 or directing the management of the individual's property or
 32 providing or directing the provision of self-care; and

33 (3) harmed or threatened with harm as a result of:

34 (A) neglect;

35 (B) battery; or

36 (C) exploitation of the individual's personal services or
 37 property.

38 (b) For purposes of IC 12-10-3-17, IC 35-42-2-1, and
 39 IC 35-46-1-13, "endangered adult" means an individual who is:

40 (1) at least eighteen (18) years of age;

41 (2) incapable by reason of mental illness, ~~mental retardation;~~
 42 **intellectual disability**, dementia, or other physical or mental



1 incapacity of managing or directing the management of the
 2 individual's property or providing or directing the provision of
 3 self-care; and

4 (3) harmed or threatened with harm as a result of:

5 (A) neglect; or

6 (B) battery.

7 (c) An individual is not an endangered adult solely:

8 (1) for the reason that the individual is being provided spiritual
 9 treatment in accordance with a recognized religious method of
 10 healing instead of specified medical treatment if the individual
 11 would not be considered to be an endangered adult if the
 12 individual were receiving the medical treatment; or

13 (2) on the basis of being physically unable to provide self care
 14 when appropriate care is being provided.

15 SECTION 12. IC 12-10-6-2.1, AS AMENDED BY P.L.6-2012,
 16 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2015]: Sec. 2.1. (a) An individual who is incapable of residing
 18 in the individual's own home may apply for residential care assistance
 19 under this section. The determination of eligibility for residential care
 20 assistance is the responsibility of the division. Except as provided in
 21 subsection (h), an individual is eligible for residential care assistance
 22 if the division determines that the individual:

23 (1) is a recipient of Medicaid or the federal Supplemental Security
 24 Income program;

25 (2) is incapable of residing in the individual's own home because
 26 of dementia, mental illness, or a physical disability;

27 (3) requires a degree of care less than that provided by a health
 28 care facility licensed under IC 16-28;

29 (4) can be adequately cared for in a residential care setting; and

30 (5) has not made any asset transfer prohibited under the state plan
 31 or in 42 U.S.C. 1396p(c) in order to be eligible for Medicaid.

32 (b) Individuals with ~~mental retardation~~ **an intellectual disability**
 33 may not be admitted to a home or facility that provides residential care
 34 under this section.

35 (c) A service coordinator employed by the division may:

36 (1) evaluate a person seeking admission to a home or facility
 37 under subsection (a); or

38 (2) evaluate a person who has been admitted to a home or facility
 39 under subsection (a), including a review of the existing
 40 evaluations in the person's record at the home or facility.

41 If the service coordinator determines the person evaluated under this
 42 subsection has ~~mental retardation~~, **an intellectual disability**, the



1 service coordinator may recommend an alternative placement for the
2 person.

3 (d) Except as provided in section 5 of this chapter, residential care
4 consists of only room, board, and laundry, along with minimal
5 administrative direction. The recipient may retain from the recipient's
6 income a monthly personal allowance of fifty-two dollars (\$52). This
7 amount is exempt from income eligibility consideration by the division
8 and may be exclusively used by the recipient for the recipient's
9 personal needs. However, if the recipient's income is less than the
10 amount of the personal allowance, the division shall pay to the
11 recipient the difference between the amount of the personal allowance
12 and the recipient's income. A reserve or an accumulated balance from
13 such a source, together with other sources, may not be allowed to
14 exceed the state's resource allowance allowed for adults eligible for
15 state supplemental assistance or Medicaid as established by the rules
16 of the office of Medicaid policy and planning.

17 (e) In addition to the amount that may be retained as a personal
18 allowance under this section, an individual shall be allowed to retain
19 an amount equal to the individual's state and local income tax liability.
20 The amount that may be retained during a month may not exceed
21 one-third ($1/3$) of the individual's state and local income tax liability for
22 the calendar quarter in which that month occurs. This amount is
23 exempt from income eligibility consideration by the division. The
24 amount retained shall be used by the individual to pay any state or local
25 income taxes owed.

26 (f) In addition to the amounts that may be retained under
27 subsections (d) and (e), an eligible individual may retain a Holocaust
28 victim's settlement payment. The payment is exempt from income
29 eligibility consideration by the division.

30 (g) The personal allowance for one (1) month for an individual
31 described in subsection (a) is the amount that an individual would be
32 entitled to retain under subsection (d) plus an amount equal to one-half
33 ($1/2$) of the remainder of:

- 34 (1) gross earned income for that month; minus
- 35 (2) the sum of:
 - 36 (A) sixteen dollars (\$16); plus
 - 37 (B) the amount withheld from the person's paycheck for that
 - 38 month for payment of state income tax, federal income tax,
 - 39 and the tax prescribed by the federal Insurance Contribution
 - 40 Act (26 U.S.C. 3101 et seq.); plus
 - 41 (C) transportation expenses for that month; plus
 - 42 (D) any mandatory expenses required by the employer as a



1 condition of employment.

2 (h) An individual who, before September 1, 1983, has been admitted
3 to a home or facility that provides residential care under this section is
4 eligible for residential care in the home or facility.

5 (i) The director of the division may contract with the division of
6 mental health and addiction or the division of disability and
7 rehabilitative services to purchase services for individuals with a
8 mental illness or a developmental disability by providing money to
9 supplement the appropriation for community based residential care
10 programs established under IC 12-22-2 or community based residential
11 programs established under IC 12-11-1.1-1.

12 (j) A person with a mental illness may not be placed in a Christian
13 Science facility listed and certified by the Commission for
14 Accreditation of Christian Science Nursing Organizations/Facilities,
15 Inc., unless the facility is licensed under IC 16-28.

16 SECTION 13. IC 12-15-2-8 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. An individual who:

18 (1) has been found eligible for Medicaid under section 2, 3, 4, 5,
19 or 6 (**expired**) of this chapter; and

20 (2) is a patient in an institution for ~~the mentally retarded people~~
21 **with an intellectual disability** or who is a patient in a medical
22 institution, as long as the institution or that part of the institution
23 in which the patient resides qualifies as an intermediate care
24 facility for mental retardation under Title XIX of the federal
25 Social Security Act (42 U.S.C. 1396 et seq.);

26 is eligible to receive Medicaid.

27 SECTION 14. IC 12-20-6-1, AS AMENDED BY P.L.73-2005,
28 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2015]: Sec. 1. (a) A township trustee may not extend aid to an
30 individual or a household unless an application and affidavit setting
31 forth the personal condition of the individual or household has been
32 filed with the trustee within one hundred eighty (180) days before the
33 date aid is extended.

34 (b) An individual filing an application and affidavit on behalf of a
35 household must provide the names of all household members and any
36 information necessary for determining the household's eligibility for
37 township assistance. The application must be on the form prescribed by
38 the state board of accounts.

39 (c) An applicant for utility assistance under IC 12-20-16-3(a) must
40 comply with IC 12-20-16-3(d).

41 (d) The township trustee may not extend additional or continuing
42 aid to an individual or a household unless the individual or household



1 files an affidavit with the request for assistance affirming how, if at all,
 2 the personal condition of the individual or the household has changed
 3 from that set forth in the individual's or household's most recent
 4 application.

5 (e) The township trustee shall assist an applicant for township
 6 assistance in completing a township assistance application if the
 7 applicant:

- 8 (1) has a mental or physical disability, including ~~mental~~
 9 ~~retardation~~, **an intellectual disability**, cerebral palsy, blindness,
 10 or paralysis;
- 11 (2) has dyslexia; or
- 12 (3) cannot read or write the English language.

13 SECTION 15. IC 12-28-1-6, AS AMENDED BY P.L.99-2007,
 14 SECTION 133, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) The Indiana protection and
 16 advocacy services commission is established. The commission is
 17 composed of thirteen (13) members who represent or who are
 18 knowledgeable about the needs of individuals served by the
 19 commission, including ~~mental retardation~~, **an intellectual disability**,
 20 cerebral palsy, epilepsy, autism, and mental illness to be appointed as
 21 follows:

- 22 (1) Four (4) members to be appointed by the governor.
- 23 (2) Nine (9) members to be appointed by a majority vote of
 24 commission members.

25 (b) An official or employee of a branch of state government that
 26 delivers services to individuals with a developmental disability, with
 27 a mental illness, or seeking or receiving vocational rehabilitation
 28 services is not eligible for membership on the commission.

29 (c) One (1) member of the senate appointed by the president pro
 30 tempore of the senate and one (1) member of the house of
 31 representatives appointed by the speaker of the house of representatives
 32 serve in an advisory nonvoting capacity to the commission.

33 SECTION 16. IC 12-29-3-6, AS AMENDED BY P.L.99-2007,
 34 SECTION 152, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) As used in this section,
 36 "community mental retardation and other developmental disabilities
 37 center" means a community center that is:

- 38 (1) incorporated under IC 23-7-1.1 (before its repeal August 1,
 39 1991) or IC 23-17;
- 40 (2) organized for the purpose of providing services for individuals
 41 with ~~mental retardation~~ **an intellectual disability** and other
 42 individuals with a developmental disability;



(3) approved by the division of disability and rehabilitative services; and

(4) accredited for the services provided by one (1) of the following organizations:

(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.

(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(D) The National Commission on Quality Assurance, or its successor.

(E) An independent national accreditation organization approved by the secretary.

(b) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center serving the county.

(c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent (\$0.0067) on each one hundred dollars (\$100) of taxable property.

SECTION 17. IC 16-18-2-167, AS AMENDED BY P.L.229-2011, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 167. (a) "Health facility":

(1) except for purposes of IC 16-28-15, means a building, a structure, an institution, or other place for the reception, accommodation, board, care, or treatment extending beyond a continuous twenty-four (24) hour period in a week of more than four (4) individuals who need or desire such services because of physical or mental illness, infirmity, or impairment; and

(2) for purposes of IC 16-28-15, has the meaning set forth in IC 16-28-15-3.

(b) The term does not include the premises used for the reception, accommodation, board, care, or treatment in a household or family, for compensation, of a person related by blood to the head of the household or family (or to the spouse of the head of the household or family) within the degree of consanguinity of first cousins.

(c) The term does not include any of the following:

(1) Hotels, motels, or mobile homes when used as such.

(2) Hospitals or mental hospitals, except for that part of a hospital



that provides long term care services and functions as a health facility, in which case that part of the hospital is licensed under IC 16-21-2, but in all other respects is subject to IC 16-28.

(3) Hospices that furnish inpatient care and are licensed under IC 16-25-3.

(4) Institutions operated by the federal government.

(5) Foster family homes or day care centers.

(6) Schools for individuals who are deaf or blind.

(7) Day schools for individuals with ~~mental retardation~~; **an intellectual disability**.

(8) Day care centers.

(9) Children's homes and child placement agencies.

(10) Offices of practitioners of the healing arts.

(11) Any institution in which health care services and private duty nursing services are provided that is listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

(12) Industrial clinics providing only emergency medical services or first aid for employees.

(13) A residential facility (as defined in IC 12-7-2-165).

(14) Maternity homes.

(15) Offices of Christian Science practitioners.

SECTION 18. IC 16-39-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) This section does not apply to the following:

(1) An institution licensed under IC 12-25.

(2) A hospital licensed under IC 16-21.

(3) A treatment facility certified under IC 12-23-1-6.

(4) A state institution listed under IC 12-24-1.

(b) This section applies only to a patient's mental health records.

(c) A patient, or the patient's legal representative if the patient is incompetent, who consents in writing to the release of information to an insurer that has issued a policy of accident and sickness insurance (as defined in IC 27-8-5-1) covering the patient, authorizes the provider to disclose the following information to the insurer:

(1) The patient's name and the policy or contract number.

(2) The date the patient was admitted to a treatment facility or the date the patient began receiving mental health, ~~mental retardation~~, **intellectual disability**, or substance abuse (as defined in IC 27-8-5-15.5) services.

(3) The date of the beginning of the patient's illness.

(4) The date the patient was discharged from the treatment facility



or the date the services were terminated, if known.

(5) The diagnosis for the patient with concise information substantiating the diagnosis.

(6) A brief description of the services provided to the patient, including the type of therapy used, medications ordered and administered, the total number of hours spent in individual, group, or family treatment, recreational therapy, or rehabilitation activities.

(7) The patient's status as either an inpatient or outpatient.

(8) The patient's relationship to the policyholder or contract subscriber.

(9) The patient's prognosis and plan of treatment.

An insurer's request for the release of additional mental health information relating to subdivisions (1) through (9) does not require a further release in order for the provider to submit the additional information to the insurer. The provider may release to the insurer mental health information in addition to that reasonably related to subdivisions (1) through (9) if an additional written consent is obtained from the patient or the patient's representative authorizing the release of all information necessary for the insurer to adjudicate a claim made by the patient or the patient's representative. If such a release is obtained, no further releases are required in order for the provider to submit additional information in response to subsequent requests for information by the insurer to complete its review of the claim.

(d) Nothing in this section removes the obligation of a patient to pay for services if the patient's failure to authorize the release of information under this section results in the limitation or denial of insurance benefits.

SECTION 19. IC 16-41-17-2, AS AMENDED BY P.L.229-2011, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Subject to subsection (d), every infant shall be given examinations at the earliest feasible time for the detection of the following disorders:

(1) Phenylketonuria.

(2) Hypothyroidism.

(3) Hemoglobinopathies, including sickle cell anemia.

(4) Galactosemia.

(5) Maple Syrup urine disease.

(6) Homocystinuria.

(7) Inborn errors of metabolism that result in ~~mental retardation~~ **an intellectual disability** and that are designated by the state department.



(8) Congenital adrenal hyperplasia.

(9) Biotinidase deficiency.

(10) Disorders detected by tandem mass spectrometry or other technologies with the same or greater detection capabilities as tandem mass spectrometry, if the state department determines that the technology is available for use by a designated laboratory under section 7 of this chapter.

(b) Subject to subsection (d), every infant shall be given a physiologic hearing screening examination at the earliest feasible time for the detection of hearing impairments.

(c) Beginning January 1, 2012, and subject to subsection (d), every infant shall be given a pulse oximetry screening examination at the earliest feasible time for the detection of low oxygen levels. Section 10(a)(2) of this chapter does not apply to this subsection.

(d) If a parent of an infant objects in writing, for reasons pertaining to religious beliefs only, the infant is exempt from the examinations required by this chapter.

SECTION 20. IC 16-41-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. The state department shall conduct an intensive educational program among physicians, hospitals, public health nurses, and the public concerning the disorders listed in section 2 of this chapter. The educational program must include information about:

(1) the nature of the disorders; and

(2) examinations for the detection of the disorders in infancy;

so that measures may be taken to prevent the ~~mental retardation~~, **intellectual disabilities**, medical complications, or mortality resulting from the disorders.

SECTION 21. IC 22-4-2-37, AS AMENDED BY P.L.99-2007, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 37. For the purposes of IC 22-4-8-2(j)(3)(C), "school" means an educational institution that is accredited and approved by the Indiana state board of education and is an academic school system, whereby a student may progressively advance, starting with the first grade through the twelfth grade. This includes all accredited public and parochial schools which are primary, secondary, or preparatory schools. "School" does not include:

(1) a kindergarten, not a part of the public or parochial school system;

(2) a day care center;

(3) an organization furnishing psychiatric care and treatment;

(4) an organization furnishing training or rehabilitation for



1 individuals with ~~mental retardation~~ **an intellectual disability** or
2 a physical disability, which organization is not a part of the public
3 or parochial school system; or

4 (5) an organization offering preschool training, not a part of the
5 public or parochial school system.

6 SECTION 22. IC 27-8-5-2, AS AMENDED BY P.L.160-2011,
7 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2015]: Sec. 2. (a) No individual policy of accident and
9 sickness insurance shall be delivered or issued for delivery to any
10 person in this state unless it complies with each of the following:

11 (1) The entire money and other considerations for the policy are
12 expressed in the policy.

13 (2) The time at which the insurance takes effect and terminates is
14 expressed in the policy.

15 (3) The policy purports to insure only one (1) person, except that
16 a policy must insure, originally or by subsequent amendment,
17 upon the application of any member of a family who shall be
18 deemed the policyholder and who is at least eighteen (18) years
19 of age, any two (2) or more eligible members of that family,
20 including husband, wife, dependent children, or any children who
21 are less than twenty-six (26) years of age, and any other person
22 dependent upon the policyholder.

23 (4) The style, arrangement, and overall appearance of the policy
24 give no undue prominence to any portion of the text, and unless
25 every printed portion of the text of the policy and of any
26 endorsements or attached papers is plainly printed in lightface
27 type of a style in general use, the size of which shall be uniform
28 and not less than ten point with a lower-case unspaced alphabet
29 length not less than one hundred and twenty point (the "text" shall
30 include all printed matter except the name and address of the
31 insurer, name or title of the policy, the brief description if any,
32 and captions and subcaptions).

33 (5) The exceptions and reductions of indemnity are set forth in the
34 policy and, except those which are set forth in section 3 of this
35 chapter, are printed, at the insurer's option, either included with
36 the benefit provision to which they apply, or under an appropriate
37 caption such as "EXCEPTIONS", or "EXCEPTIONS AND
38 REDUCTIONS", provided that if an exception or reduction
39 specifically applies only to a particular benefit of the policy, a
40 statement of such exception or reduction shall be included with
41 the benefit provision to which it applies.

42 (6) Each such form of the policy, including riders and



endorsements, shall be identified by a form number in the lower left-hand corner of the first page of the policy.

(7) The policy contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(8) If an individual accident and sickness insurance policy or hospital service plan contract or medical service plan contract provides that hospital or medical expense coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in such policy or contract, the policy or contract must also provide that attainment of such limiting age does not operate to terminate the hospital and medical coverage of such child while the child is and continues to be both:

(A) incapable of self-sustaining employment by reason of ~~mental retardation~~ or mental, **intellectual**, or physical disability; and

(B) chiefly dependent upon the policyholder for support and maintenance.

Proof of such incapacity and dependency must be furnished to the insurer by the policyholder within thirty-one (31) days of the child's attainment of the limiting age. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After such two (2) year period, the insurer may require subsequent proof not more than once each year. The foregoing provision shall not require an insurer to insure a dependent who is a child who has ~~mental retardation~~ or a mental, **intellectual**, or physical disability where such dependent does not satisfy the conditions of the policy provisions as may be stated in the policy or contract required for coverage thereunder to take effect. In any such case the terms of the policy or contract shall apply with regard to the coverage or exclusion from coverage of such dependent. This subsection applies only to policies or contracts delivered or issued for delivery in this state more than one hundred twenty (120) days after August 18, 1969.

(b) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not



1 subject to approval or disapproval by such official, the commissioner
 2 may by ruling require that such policy meet the standards set forth in
 3 subsection (a) and in section 3 of this chapter.

4 (c) An insurer may issue a policy described in this section in
 5 electronic or paper form. However, the insurer shall:

6 (1) inform the insured that the insured may request the policy in
 7 paper form; and

8 (2) issue the policy in paper form upon the request of the insured.

9 SECTION 23. IC 27-8-5-19, AS AMENDED BY P.L.173-2007,
 10 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2015]: Sec. 19. (a) As used in this chapter, "late enrollee" has
 12 the meaning set forth in 26 U.S.C. 9801(b)(3).

13 (b) A policy of group accident and sickness insurance may not be
 14 issued to a group that has a legal situs in Indiana unless it contains in
 15 substance:

16 (1) the provisions described in subsection (c); or

17 (2) provisions that, in the opinion of the commissioner, are:

18 (A) more favorable to the persons insured; or

19 (B) at least as favorable to the persons insured and more
 20 favorable to the policyholder;

21 than the provisions set forth in subsection (c).

22 (c) The provisions referred to in subsection (b)(1) are as follows:

23 (1) A provision that the policyholder is entitled to a grace period
 24 of thirty-one (31) days for the payment of any premium due
 25 except the first, during which grace period the policy will
 26 continue in force, unless the policyholder has given the insurer
 27 written notice of discontinuance in advance of the date of
 28 discontinuance and in accordance with the terms of the policy.
 29 The policy may provide that the policyholder is liable to the
 30 insurer for the payment of a pro rata premium for the time the
 31 policy was in force during the grace period. A provision under
 32 this subdivision may provide that the insurer is not obligated to
 33 pay claims incurred during the grace period until the premium
 34 due is received.

35 (2) A provision that the validity of the policy may not be
 36 contested, except for nonpayment of premiums, after the policy
 37 has been in force for two (2) years after its date of issue, and that
 38 no statement made by a person covered under the policy relating
 39 to the person's insurability may be used in contesting the validity
 40 of the insurance with respect to which the statement was made,
 41 unless:

42 (A) the insurance has not been in force for a period of two (2)



1 years or longer during the person's lifetime; or

2 (B) the statement is contained in a written instrument signed
3 by the insured person.

4 However, a provision under this subdivision may not preclude the
5 assertion at any time of defenses based upon a person's
6 ineligibility for coverage under the policy or based upon other
7 provisions in the policy.

8 (3) A provision that a copy of the application, if there is one, of
9 the policyholder must be attached to the policy when issued, that
10 all statements made by the policyholder or by the persons insured
11 are to be deemed representations and not warranties, and that no
12 statement made by any person insured may be used in any contest
13 unless a copy of the instrument containing the statement is or has
14 been furnished to the insured person or, in the event of death or
15 incapacity of the insured person, to the insured person's
16 beneficiary or personal representative.

17 (4) A provision setting forth the conditions, if any, under which
18 the insurer reserves the right to require a person eligible for
19 insurance to furnish evidence of individual insurability
20 satisfactory to the insurer as a condition to part or all of the
21 person's coverage.

22 (5) A provision specifying any additional exclusions or limitations
23 applicable under the policy with respect to a disease or physical
24 condition of a person that existed before the effective date of the
25 person's coverage under the policy and that is not otherwise
26 excluded from the person's coverage by name or specific
27 description effective on the date of the person's loss. An exclusion
28 or limitation that must be specified in a provision under this
29 subdivision:

30 (A) may apply only to a disease or physical condition for
31 which medical advice, diagnosis, care, or treatment was
32 received by the person or recommended to the person during
33 the six (6) months before the effective date of the person's
34 coverage; and

35 (B) may not apply to a loss incurred or disability beginning
36 after the earlier of:

37 (i) the end of a continuous period of twelve (12) months
38 beginning on or after the effective date of the person's
39 coverage; or

40 (ii) the end of a continuous period of eighteen (18) months
41 beginning on the effective date of the person's coverage if
42 the person is a late enrollee.



1 This subdivision applies only to group policies of accident and
 2 sickness insurance other than those described in section 2.5(a)(1)
 3 through 2.5(a)(8) and 2.5(b)(2) of this chapter.

4 (6) A provision specifying any additional exclusions or limitations
 5 applicable under the policy with respect to a disease or physical
 6 condition of a person that existed before the effective date of the
 7 person's coverage under the policy. An exclusion or limitation that
 8 must be specified in a provision under this subdivision:

9 (A) may apply only to a disease or physical condition for
 10 which medical advice or treatment was received by the person
 11 during a period of three hundred sixty-five (365) days before
 12 the effective date of the person's coverage; and

13 (B) may not apply to a loss incurred or disability beginning
 14 after the earlier of the following:

15 (i) The end of a continuous period of three hundred
 16 sixty-five (365) days, beginning on or after the effective date
 17 of the person's coverage, during which the person did not
 18 receive medical advice or treatment in connection with the
 19 disease or physical condition.

20 (ii) The end of the two (2) year period beginning on the
 21 effective date of the person's coverage.

22 This subdivision applies only to group policies of accident and
 23 sickness insurance described in section 2.5(a)(1) through
 24 2.5(a)(8) of this chapter.

25 (7) If premiums or benefits under the policy vary according to a
 26 person's age, a provision specifying an equitable adjustment of:

27 (A) premiums;

28 (B) benefits; or

29 (C) both premiums and benefits;

30 to be made if the age of a covered person has been misstated. A
 31 provision under this subdivision must contain a clear statement of
 32 the method of adjustment to be used.

33 (8) A provision that the insurer will issue to the policyholder, for
 34 delivery to each person insured, a certificate, in electronic or
 35 paper form, setting forth a statement that:

36 (A) explains the insurance protection to which the person
 37 insured is entitled;

38 (B) indicates to whom the insurance benefits are payable; and

39 (C) explains any family member's or dependent's coverage
 40 under the policy.

41 The provision must specify that the certificate will be provided in
 42 paper form upon the request of the insured.



(9) A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

(10) A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

(11) A provision stating that:

(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

(12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid:

(i) not more than forty-five (45) days after the insurer's (as defined in IC 27-8-5.7-3) receipt of written proof of loss if the claim is filed by the policyholder; or



- 1 (ii) in accordance with IC 27-8-5.7 if the claim is filed by
 2 the provider (as defined in IC 27-8-5.7-4); and
 3 (B) subject to due proof of loss, all accrued benefits under the
 4 policy for loss of time will be paid not less frequently than
 5 monthly during the continuance of the period for which the
 6 insurer is liable, and any balance remaining unpaid at the
 7 termination of the period for which the insurer is liable will be
 8 paid as soon as possible after receipt of the proof of loss.
- 9 (13) A provision that benefits for loss of life of the person insured
 10 are payable to the beneficiary designated by the person insured.
 11 However, if the policy contains conditions pertaining to family
 12 status, the beneficiary may be the family member specified by the
 13 policy terms. In either case, payment of benefits for loss of life is
 14 subject to the provisions of the policy if no designated or
 15 specified beneficiary is living at the death of the person insured.
 16 All other benefits of the policy are payable to the person insured.
 17 The policy may also provide that if any benefit is payable to the
 18 estate of a person or to a person who is a minor or otherwise not
 19 competent to give a valid release, the insurer may pay the benefit,
 20 up to an amount of five thousand dollars (\$5,000), to any relative
 21 by blood or connection by marriage of the person who is deemed
 22 by the insurer to be equitably entitled to the benefit.
- 23 (14) A provision that the insurer, at the insurer's expense, has the
 24 right and must be allowed the opportunity to:
 25 (A) examine the person of the individual for whom a claim is
 26 made under the policy when and as often as the insurer
 27 reasonably requires during the pendency of the claim; and
 28 (B) conduct an autopsy in case of death if it is not prohibited
 29 by law.
- 30 (15) A provision that no action at law or in equity may be brought
 31 to recover on the policy less than sixty (60) days after proof of
 32 loss is filed in accordance with the requirements of the policy and
 33 that no action may be brought at all more than three (3) years after
 34 the expiration of the time within which proof of loss is required
 35 by the policy.
- 36 (16) In the case of a policy insuring debtors, a provision that the
 37 insurer will furnish to the policyholder, for delivery to each debtor
 38 insured under the policy, a certificate of insurance describing the
 39 coverage and specifying that the benefits payable will first be
 40 applied to reduce or extinguish the indebtedness.
- 41 (17) If the policy provides that hospital or medical expense
 42 coverage of a dependent child of a group member terminates upon



the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of ~~mental retardation or a~~ mental, **intellectual**, or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a child who has ~~mental retardation or a~~ mental, **intellectual**, or physical disability who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

(18) A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), (c)(8), and (c)(13) do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

(e) If any policy provision required under subsection (c) is in whole or in part inapplicable to or inconsistent with the coverage provided by an insurer under a particular form of policy, the insurer, with the approval of the commissioner, shall delete the provision from the policy or modify the provision in such a manner as to make it consistent with the coverage provided by the policy.

(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which an individual insured under the policy may:



(1) obtain a certificate described in subsection (c)(8); and

(2) request the certificate in paper form.

SECTION 24. IC 27-8-10-5.1, AS AMENDED BY P.L.229-2011, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for any of the coverage described in subdivisions (1) and (2). A person other than a federally eligible individual may not apply for an association policy unless the person has applied for:

(1) Medicaid; and

(2) coverage under the:

(A) preexisting condition insurance plan program established by the Secretary of Health and Human Services under Section 1101 of Title I of the federal Patient Protection and Affordable Care Act (P.L. 111-148); and

(B) Indiana check-up plan under IC 12-15-44.2;

not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e) (expired July 1, 2007, and removed), IC 27-8-5-2.7, IC 27-8-5-19.2(e) (expired July 1, 2007, and repealed), or IC 27-8-5-19.3 does not affect an individual's eligibility for an association policy under this subsection. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.



(d) Coverage under an association policy terminates as follows:

- (1) On the first date on which an insured is no longer a resident of Indiana.
- (2) On the date on which an insured requests cancellation of the association policy.
- (3) On the date of the death of an insured.
- (4) At the end of the policy period for which the premium has been paid.
- (5) On the first date on which the insured no longer meets the eligibility requirements under this section.

(e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

- (1) incapable of self-sustaining employment by reason of ~~mental retardation~~ or a mental, intellectual, or physical disability; and
- (2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(f) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(g) Except as provided in subsection (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a



given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (c), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(i) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 25. IC 35-31.5-2-169, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 169. (a) "Individual with ~~mental retardation~~", **an intellectual disability**", for purposes of IC 35-36-2-5(e), has the meaning set forth in IC 35-36-2-5(e).

(b) "~~Individual with mental retardation~~", **an intellectual disability**", for purposes of IC 35-36-9 and IC 35-50-2, has the meaning set forth in IC 35-36-9-2.

SECTION 26. IC 35-36-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. As used in this article:

"Insanity" refers to the defense set out in IC 35-41-3-6.

"Mentally ill" means having a psychiatric disorder which substantially disturbs a person's thinking, feeling, or behavior and impairs the person's ability to function. ~~"mentally ill"~~ **also The term includes having any mental retardation. an intellectual disability.**

"Omnibus date" refers to the omnibus date established under IC 35-36-8-1.

SECTION 27. IC 35-36-2-5, AS AMENDED BY P.L.114-2012, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Except as provided by subsection (e), whenever a defendant is found guilty but mentally ill at the time of the crime or enters a plea to that effect that is accepted by the court, the



1 court shall sentence the defendant in the same manner as a defendant
2 found guilty of the offense.

3 (b) Before sentencing the defendant under subsection (a), the court
4 shall require the defendant to be evaluated by a physician licensed
5 under IC 25-22.5 who practices psychiatric medicine, a licensed
6 psychologist, or a community mental health center (as defined in
7 IC 12-7-2-38). However, the court may waive this requirement if the
8 defendant was evaluated by a physician licensed under IC 25-22.5 who
9 practices psychiatric medicine, a licensed psychologist, or a community
10 mental health center and the evaluation is contained in the record of the
11 defendant's trial or plea agreement hearing.

12 (c) If a defendant who is found guilty but mentally ill at the time of
13 the crime is committed to the department of correction, the defendant
14 shall be further evaluated and then treated in such a manner as is
15 psychiatrically indicated for the defendant's mental illness. Treatment
16 may be provided by:

17 (1) the department of correction; or

18 (2) the division of mental health and addiction after transfer under
19 IC 11-10-4.

20 (d) If a defendant who is found guilty but mentally ill at the time of
21 the crime is placed on probation, the court may, in accordance with
22 IC 35-38-2-2.3, require that the defendant undergo treatment.

23 (e) As used in this subsection, "individual with ~~mental retardation~~"
24 **an intellectual disability**" means an individual who, before becoming
25 twenty-two (22) years of age, manifests:

26 (1) significantly subaverage intellectual functioning; and

27 (2) substantial impairment of adaptive behavior;

28 that is documented in a court ordered evaluative report. If a court
29 determines under IC 35-36-9 that a defendant who is charged with a
30 murder for which the state seeks a death sentence is an individual with
31 ~~mental retardation~~, **an intellectual disability**, the court shall sentence
32 the defendant under IC 35-50-2-3(a).

33 (f) If a defendant is found guilty but mentally ill, the court shall
34 transmit any information required by the division of state court
35 administration to the division of state court administration for
36 transmission to the NICS (as defined in IC 35-47-2.5-2.5) in
37 accordance with IC 33-24-6-3.

38 SECTION 28. IC 35-36-9-2, AS AMENDED BY P.L.99-2007,
39 SECTION 201, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this chapter,
41 "individual with ~~mental retardation~~" **an intellectual disability**" means
42 an individual who, before becoming twenty-two (22) years of age,



manifests:

(1) significantly subaverage intellectual functioning; and

(2) substantial impairment of adaptive behavior;

that is documented in a court ordered evaluative report.

SECTION 29. IC 35-36-9-3, AS AMENDED BY P.L.99-2007, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The defendant may file a petition alleging that the defendant is an individual with ~~mental retardation~~ **an intellectual disability**.

(b) The petition must be filed not later than twenty (20) days before the omnibus date.

(c) Whenever the defendant files a petition under this section, the court shall order an evaluation of the defendant for the purpose of providing evidence of the following:

(1) Whether the defendant has a significantly subaverage level of intellectual functioning.

(2) Whether the defendant's adaptive behavior is substantially impaired.

(3) Whether the conditions described in subdivisions (1) and (2) existed before the defendant became twenty-two (22) years of age.

SECTION 30. IC 35-36-9-4, AS AMENDED BY P.L.99-2007, SECTION 203, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) The court shall conduct a hearing on the petition under this chapter.

(b) At the hearing, the defendant must prove by clear and convincing evidence that the defendant is an individual with ~~mental retardation~~ **an intellectual disability**.

SECTION 31. IC 35-36-9-5, AS AMENDED BY P.L.99-2007, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Not later than ten (10) days before the initial trial date, the court shall determine whether the defendant is an individual with ~~mental retardation~~ **an intellectual disability** based on the evidence set forth at the hearing under section 4 of this chapter. The court shall articulate findings supporting the court's determination under this section.

SECTION 32. IC 35-36-9-6, AS AMENDED BY P.L.99-2007, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. If the court determines that the defendant is an individual with ~~mental retardation~~ **an intellectual disability** under section 5 of this chapter, the part of the state's charging instrument filed under IC 35-50-2-9(a) that seeks a death sentence against the defendant shall be dismissed.



SECTION 33. IC 35-36-9-7, AS AMENDED BY P.L.99-2007, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. If a defendant who is determined to be an individual with ~~mental retardation~~ **an intellectual disability** under this chapter is convicted of murder, the court shall sentence the defendant under IC 35-50-2-3(a).

SECTION 34. IC 35-37-4-6, AS AMENDED BY P.L.28-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):

- (1) Sex crimes (IC 35-42-4).
- (2) Battery upon a child **less than fourteen (14) years of age** ~~(IC 35-42-2-1(a)(2)(B))~~. **(IC 35-42-2-1)**.
- (3) Kidnapping and confinement (IC 35-42-3).
- (4) Incest (IC 35-46-1-3).
- (5) Neglect of a dependent (IC 35-46-1-4).
- (6) Human and sexual trafficking crimes (IC 35-42-3.5).
- (7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):

- (1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).
- (2) A sex crime (IC 35-42-4).
- (3) Battery (IC 35-42-2-1).
- (4) Kidnapping, confinement, or interference with custody (IC 35-42-3).
- (5) Home improvement fraud (IC 35-43-6).
- (6) Fraud (IC 35-43-5).
- (7) Identity deception (IC 35-43-5-3.5).
- (8) Synthetic identity deception (IC 35-43-5-3.8).
- (9) Theft (IC 35-43-4-2).
- (10) Conversion (IC 35-43-4-3).
- (11) Neglect of a dependent (IC 35-46-1-4).
- (12) Human and sexual trafficking crimes (IC 35-42-3.5).

(c) As used in this section, "protected person" means:

- (1) a child who is less than fourteen (14) years of age;
- (2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
 - (A) is manifested before the individual is eighteen (18) years



- 1 of age;
- 2 (B) is likely to continue indefinitely;
- 3 (C) constitutes a substantial impairment of the individual's
- 4 ability to function normally in society; and
- 5 (D) reflects the individual's need for a combination and
- 6 sequence of special, interdisciplinary, or generic care,
- 7 treatment, or other services that are of lifelong or extended
- 8 duration and are individually planned and coordinated; or
- 9 (3) an individual who is:
- 10 (A) at least eighteen (18) years of age; and
- 11 (B) incapable by reason of mental illness, ~~mental retardation,~~
- 12 **intellectual disability**, dementia, or other physical or mental
- 13 incapacity of:
- 14 (i) managing or directing the management of the individual's
- 15 property; or
- 16 (ii) providing or directing the provision of self-care.
- 17 (d) A statement or videotape that:
- 18 (1) is made by a person who at the time of trial is a protected
- 19 person;
- 20 (2) concerns an act that is a material element of an offense listed
- 21 in subsection (a) or (b) that was allegedly committed against the
- 22 person; and
- 23 (3) is not otherwise admissible in evidence;
- 24 is admissible in evidence in a criminal action for an offense listed in
- 25 subsection (a) or (b) if the requirements of subsection (e) are met.
- 26 (e) A statement or videotape described in subsection (d) is
- 27 admissible in evidence in a criminal action listed in subsection (a) or
- 28 (b) if, after notice to the defendant of a hearing and of the defendant's
- 29 right to be present, all of the following conditions are met:
- 30 (1) The court finds, in a hearing:
- 31 (A) conducted outside the presence of the jury; and
- 32 (B) attended by the protected person in person or by using
- 33 closed circuit television testimony as described in section 8(f)
- 34 and 8(g) of this chapter;
- 35 that the time, content, and circumstances of the statement or
- 36 videotape provide sufficient indications of reliability.
- 37 (2) The protected person:
- 38 (A) testifies at the trial; or
- 39 (B) is found by the court to be unavailable as a witness for one
- 40 (1) of the following reasons:
- 41 (i) From the testimony of a psychiatrist, physician, or
- 42 psychologist, and other evidence, if any, the court finds that



the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

(3) The circumstances under which the statement or videotape was made.

(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:

(1) transcript; or

(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 35. IC 35-50-2-1.5, AS AMENDED BY P.L.99-2007, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. As used in this chapter, "individual with mental retardation" **an intellectual disability** has the



1 meaning set forth in IC 35-36-9-2.

2 SECTION 36. IC 35-50-2-3, AS AMENDED BY P.L.99-2007,
3 SECTION 212, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) A person who commits
5 murder shall be imprisoned for a fixed term of between forty-five (45)
6 and sixty-five (65) years, with the advisory sentence being fifty-five
7 (55) years. In addition, the person may be fined not more than ten
8 thousand dollars (\$10,000).

9 (b) Notwithstanding subsection (a), a person who was:

10 (1) at least eighteen (18) years of age at the time the murder was
11 committed may be sentenced to:

12 (A) death; or

13 (B) life imprisonment without parole; and

14 (2) at least sixteen (16) years of age but less than eighteen (18)
15 years of age at the time the murder was committed may be
16 sentenced to life imprisonment without parole;

17 under section 9 of this chapter unless a court determines under
18 IC 35-36-9 that the person is an individual with ~~mental retardation~~ **an**
19 **intellectual disability**.

20 SECTION 37. IC 35-50-2-9, AS AMENDED BY P.L.168-2014,
21 SECTION 119, IS AMENDED TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The state may seek either a
23 death sentence or a sentence of life imprisonment without parole for
24 murder by alleging, on a page separate from the rest of the charging
25 instrument, the existence of at least one (1) of the aggravating
26 circumstances listed in subsection (b). In the sentencing hearing after
27 a person is convicted of murder, the state must prove beyond a
28 reasonable doubt the existence of at least one (1) of the aggravating
29 circumstances alleged. However, the state may not proceed against a
30 defendant under this section if a court determines at a pretrial hearing
31 under IC 35-36-9 that the defendant is an individual with ~~mental~~
32 ~~retardation~~ **an intellectual disability**.

33 (b) The aggravating circumstances are as follows:

34 (1) The defendant committed the murder by intentionally killing
35 the victim while committing or attempting to commit any of the
36 following:

37 (A) Arson (IC 35-43-1-1).

38 (B) Burglary (IC 35-43-2-1).

39 (C) Child molesting (IC 35-42-4-3).

40 (D) Criminal deviate conduct (IC 35-42-4-2) (before its
41 repeal).

42 (E) Kidnapping (IC 35-42-3-2).



- 1 (F) Rape (IC 35-42-4-1).
- 2 (G) Robbery (IC 35-42-5-1).
- 3 (H) Carjacking (IC 35-42-5-2) (before its repeal).
- 4 (I) Criminal gang activity (IC 35-45-9-3).
- 5 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 6 (K) Criminal confinement (IC 35-42-3-3).
- 7 (2) The defendant committed the murder by the unlawful
- 8 detonation of an explosive with intent to injure a person or
- 9 damage property.
- 10 (3) The defendant committed the murder by lying in wait.
- 11 (4) The defendant who committed the murder was hired to kill.
- 12 (5) The defendant committed the murder by hiring another person
- 13 to kill.
- 14 (6) The victim of the murder was a corrections employee,
- 15 probation officer, parole officer, community corrections worker,
- 16 home detention officer, fireman, judge, or law enforcement
- 17 officer, and either:
- 18 (A) the victim was acting in the course of duty; or
- 19 (B) the murder was motivated by an act the victim performed
- 20 while acting in the course of duty.
- 21 (7) The defendant has been convicted of another murder.
- 22 (8) The defendant has committed another murder, at any time,
- 23 regardless of whether the defendant has been convicted of that
- 24 other murder.
- 25 (9) The defendant was:
- 26 (A) under the custody of the department of correction;
- 27 (B) under the custody of a county sheriff;
- 28 (C) on probation after receiving a sentence for the commission
- 29 of a felony; or
- 30 (D) on parole;
- 31 at the time the murder was committed.
- 32 (10) The defendant dismembered the victim.
- 33 (11) The defendant burned, mutilated, or tortured the victim while
- 34 the victim was alive.
- 35 (12) The victim of the murder was less than twelve (12) years of
- 36 age.
- 37 (13) The victim was a victim of any of the following offenses for
- 38 which the defendant was convicted:
- 39 (A) Battery committed before July 1, 2014, as a Class D felony
- 40 or as a Class C felony under IC 35-42-2-1 or battery
- 41 committed after June 30, 2014, as a Level 6 felony, a Level 5
- 42 felony, a Level 4 felony, or a Level 3 felony.



- 1 (B) Kidnapping (IC 35-42-3-2).
- 2 (C) Criminal confinement (IC 35-42-3-3).
- 3 (D) A sex crime under IC 35-42-4.
- 4 (14) The victim of the murder was listed by the state or known by
- 5 the defendant to be a witness against the defendant and the
- 6 defendant committed the murder with the intent to prevent the
- 7 person from testifying.
- 8 (15) The defendant committed the murder by intentionally
- 9 discharging a firearm (as defined in IC 35-47-1-5):
- 10 (A) into an inhabited dwelling; or
- 11 (B) from a vehicle.
- 12 (16) The victim of the murder was pregnant and the murder
- 13 resulted in the intentional killing of a fetus that has attained
- 14 viability (as defined in IC 16-18-2-365).
- 15 (c) The mitigating circumstances that may be considered under this
- 16 section are as follows:
- 17 (1) The defendant has no significant history of prior criminal
- 18 conduct.
- 19 (2) The defendant was under the influence of extreme mental or
- 20 emotional disturbance when the murder was committed.
- 21 (3) The victim was a participant in or consented to the defendant's
- 22 conduct.
- 23 (4) The defendant was an accomplice in a murder committed by
- 24 another person, and the defendant's participation was relatively
- 25 minor.
- 26 (5) The defendant acted under the substantial domination of
- 27 another person.
- 28 (6) The defendant's capacity to appreciate the criminality of the
- 29 defendant's conduct or to conform that conduct to the
- 30 requirements of law was substantially impaired as a result of
- 31 mental disease or defect or of intoxication.
- 32 (7) The defendant was less than eighteen (18) years of age at the
- 33 time the murder was committed.
- 34 (8) Any other circumstances appropriate for consideration.
- 35 (d) If the defendant was convicted of murder in a jury trial, the jury
- 36 shall reconvene for the sentencing hearing. If the trial was to the court,
- 37 or the judgment was entered on a guilty plea, the court alone shall
- 38 conduct the sentencing hearing. The jury or the court may consider all
- 39 the evidence introduced at the trial stage of the proceedings, together
- 40 with new evidence presented at the sentencing hearing. The court shall
- 41 instruct the jury concerning the statutory penalties for murder and any
- 42 other offenses for which the defendant was convicted, the potential for



consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the



1 date the petition is filed, shall set a date to hold a hearing to consider
 2 the petition. If a court does not, within the ninety (90) day period, set
 3 the date to hold the hearing to consider the petition, the court's failure
 4 to set the hearing date is not a basis for additional post-conviction
 5 relief. The attorney general shall answer the petition for post-conviction
 6 relief on behalf of the state. At the request of the attorney general, a
 7 prosecuting attorney shall assist the attorney general. The court shall
 8 enter written findings of fact and conclusions of law concerning the
 9 petition not later than ninety (90) days after the date the hearing
 10 concludes. However, if the court determines that the petition is without
 11 merit, the court may dismiss the petition within ninety (90) days
 12 without conducting a hearing under this subsection.

13 (j) A death sentence is subject to automatic review by the supreme
 14 court. The review, which shall be heard under rules adopted by the
 15 supreme court, shall be given priority over all other cases. The supreme
 16 court's review must take into consideration all claims that the:

17 (1) conviction or sentence was in violation of the:

18 (A) Constitution of the State of Indiana; or

19 (B) Constitution of the United States;

20 (2) sentencing court was without jurisdiction to impose a
 21 sentence; and

22 (3) sentence:

23 (A) exceeds the maximum sentence authorized by law; or

24 (B) is otherwise erroneous.

25 If the supreme court cannot complete its review by the date set by the
 26 sentencing court for the defendant's execution under subsection (h), the
 27 supreme court shall stay the execution of the death sentence and set a
 28 new date to carry out the defendant's execution.

29 (k) A person who has been sentenced to death and who has
 30 completed state post-conviction review proceedings may file a written
 31 petition with the supreme court seeking to present new evidence
 32 challenging the person's guilt or the appropriateness of the death
 33 sentence if the person serves notice on the attorney general. The
 34 supreme court shall determine, with or without a hearing, whether the
 35 person has presented previously undiscovered evidence that
 36 undermines confidence in the conviction or the death sentence. If
 37 necessary, the supreme court may remand the case to the trial court for
 38 an evidentiary hearing to consider the new evidence and its effect on
 39 the person's conviction and death sentence. The supreme court may not
 40 make a determination in the person's favor nor make a decision to
 41 remand the case to the trial court for an evidentiary hearing without
 42 first providing the attorney general with an opportunity to be heard on



1 the matter.
2 (l) Before a sentence may be imposed under this section, the jury,
3 in a proceeding under subsection (e), or the court, in a proceeding
4 under subsection (g), must find that:
5 (1) the state has proved beyond a reasonable doubt that at least
6 one (1) of the aggravating circumstances listed in subsection (b)
7 exists; and
8 (2) any mitigating circumstances that exist are outweighed by the
9 aggravating circumstance or circumstances.



COMMITTEE REPORT

Madam President: The Senate Committee on Family and Children Services, to which was referred Senate Bill No. 420, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 19, line 20, strike "the".

Page 19, line 21, delete "intellectually disabled" and insert "**people with an intellectual disability**".

and when so amended that said bill do pass.

(Reference is to SB 420 as introduced.)

GROOMS, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 420, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 420 as printed January 28, 2015.)

CLERE

Committee Vote: Yeas 11, Nays 0

